

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA )  
v. )  
JAMES MERRILL, )  
Defendant )  
Criminal No. 14-40028-TSH

**REPORT IN LIEU OF FIFTH INTERIM STATUS CONFERENCE**  
**PURSUANT TO LOCAL RULE 116.5 (B)**

June 12, 2015

Hennessy, M.J.

A fifth Interim Status Conference was scheduled in the above-captioned case for June 12, 2015 in Worcester. However, prior to the conference, Counsel for the United States and Defendant James Merrill filed a status report that, coupled with the complex case designation this case has received and the voluminous discovery this case involves, obviates the need for a conference. Accordingly, the court has cancelled the fifth Interim Status Conference. Pursuant to Local Rule 116.5(b), and using the numeration of matters listed therein, I report as follows:

**Local Rule 116.5(b)(1) through (4)**

The United States and Defendant continue to cooperate in the production of the voluminous documentary discovery in this case. Since the last status conference in April, the United States has produced discovery of email accounts and other data maintained by alleged accomplices, forensic accounting reports and information from Brazilian law enforcement authorities. The United States has further identified in the joint status report discovery that remains to be produced,

including discovery that is being prepared in a reviewable electronic format that allows Defendant to use search terms to review these documents.

Defendant will need additional time to review the discovery that has and will be produced to determine whether discovery requests will be necessary. The parties anticipate the need for protective orders and will seek such orders as the need for them may arise.

**Local Rule 116.5(b)(5) through (7)**

Given the posture of discovery and Defendant's need to review it as it is produced, it is too early to set reliable schedules for motion practice, expert witness disclosures, and a report on whether Defendant Merrill will raise defenses of alibi, public authority or insanity. The court will take up these matters at a future interim status conference.

**Local Rule 116.5(b)(8)**

The parties agree that the period from Defendant's first appearance on the case through the June 12, 2015 Interim Status Conference is excludable from the time in which trial of this case must commence. The parties further agree that the period from the June 2015 Interim Status Conference through a further Interim Status Conference that I have set for August 12, 2015 should be excluded under the interest of justice provision of the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A). I will issue an order excluding such period based on the complex case designation this case has received and the matters discussed in the Interim Status Report. It is apparent that a continuance that allows the United States to complete the production of discovery and allows Defendant the opportunity to review this discovery serves the interests of justice. No time is chargeable against the statutory speedy trial clock. See Order of Excludable Delay entered on this date.

**Local Rule 116.5(b)(9)**

It is too early in the case to report on meaningful plea discussions.

**Local Rule 116.5(b)(10)**

A sixth Interim Status Conference will take place in this case on Wednesday, August 12, 2015 at 2:00 p.m., in Courtroom #1, Fifth Floor, Donohue Federal Building, 595 Main Street, Worcester, Massachusetts. Counsel are directed to appear in person for a review of the matters identified in the Local Rules and the status of discovery and the progress of the case.

*/s/ David H. Hennessy*

David H. Hennessy  
United States Magistrate Judge